TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

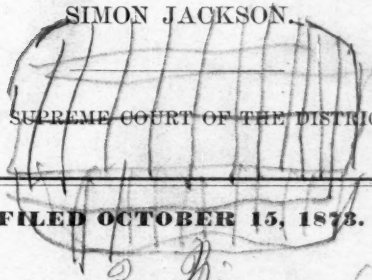
No. ~~256~~. 45

SARAH ANN JACKSON, APPELLANT,

vs.

SIMON JACKSON.

APPEAL FROM THE ~~SUPREME COURT OF THE~~ DISTRICT OF COLUMBIA.



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1 *Original bill.—Filed Sept.* 16, 1872.

In the supreme court of the District of Columbia.

Riddle for pl'ff; F. Miller & W. A. Meloy for def't.

SARAH ANN JACKSON *vs.* SIMON JACKSON. } No. 2915. Equity docket 12.

The plaintiff says:

That the parties are citizens of the District of Columbia.

That they were married, pursuant to law, on the 25th day of November, 1856, and have lived as man and wife until seven or eight months ago, when, by reason of the misconduct of the defendant, she refused further to receive him as her husband.

That for many years last past the defendant has been grossly intemperate; and that for the three years last past, and more, he has been and is an habitual drunkard.

That he has for many years last past grossly abused and ill-
2 treated her; his temper was quarrelsome and morose, and greatly ag'ravated by his habits of intemperance.

That he has often made violent threats of personal injury, and has, without cause, often accused her of committing the crime of adultery with various men.

That several times in the month of November, 1872, at said District, he struck her severe blows with his hand and fist, injuring and frightening her; the exact days of these occasions she cannot give.

That in Jan'y, on or about the 15th day, 1872, at the said District, he drew a sword, which he has long owned, and, in a violent and threatening manner, said he would run it through her, which occasioned her great fear and apprehension.

That afterwards, on or about the tenth day of Ap'l, 1872, at said District, the defendant struck hard and cruel blows, and knocked her
3 down two or three times, and that he also drew her about the room by her hair, and was and is guilty of gross and extreme cruelty towards her, whereby it became and was necessary for her, for the safety and protection of her life and person, which were in peril, to proceed against him and cause him to be put under bonds to keep the peace towards her, which she did, and the police court made the necessary order, the time for which is about to expire, and that she has on several occasions had to call in police officers for her protection.

She says that for her support she keeps boarders, and that for the year last past said Jackson has contributed for their joint support but one dollar; that, so far from aiding her, he has often interfered, and made her trouble and embarrassed her by his unreasonable conduct.

She therefore prays that process may be served on the defend-
4 ant; that he be enjoined from molesting the person or interfering with her business; and, that, on the final hearing of the case, she may be divorced from her said husband.

SARAH A. JACKSON.

A. G. RIDDLE, *of Counsel.*

Sarah Ann Jackson, being sworn, says that the various matters and things contained in the above petition, set forth as of her own knowl-

edge, are true, and that all the others she is informed and believes to be true.

R. J. MEIGS, *Clerk*,
By R. J. MEIGS, JR., *Ass't Clerk.*

5 *Summons to answer.—Issued Sept.* 16, 1872.

In the supreme court of the District of Columbia, Sept. 16, 1872.

SARAH A. JACKSON, COMPL'T,
against
SIMON JACKSON, DEF'T. } No. 2915. Equity docket 12.

The President of the United States to Simon Jackson, defendant:

You are hereby commanded to appear in this court at its first special term occurring twenty days after service of this subpœna, and answer the exigency of the bill, under pain of attachment and such process of contempt as the court shall award.

Witness: D. K. Cartter, chief justice.

R. J. MEIGS, *Clerk.*

MEMORANDUM.—That the defendant is to enter his appearance in this suit in the clerk's office on or before the special term to which this writ is returnable, otherwise the bill may be taken for confessed.

Marshal's return.

Summoned the defendant, Sept. 19th, 1872.

A. SHARP, *Marshal.*

6 *Answer of defendant.—Filed Nov.* 12, 1872.

In the supreme court of the District of Columbia.

SARAH ANN JACKSON
vs.
SIMON JACKSON. } 2915. Equity.

In answer to the bill of complaint herein filed, the said defendant says:

He admits that said parties are residents of the District of Columbia.

He further admits that they were married pursuant to law on or about the 25th day of November, 1856, and have lived as man and wife until a few months since; but he denies that by reason of his misconduct she has refused at any time to receive him as her husband, and on the contrary he avers that he has himself found it impossible longer to maintain marital relations with her, the said plaintiff, because of her own gross misconduct and infidelity towards him.

7 Further answering, as aforesaid, he denies each and every the allegations in the 3d, 4th, and 5th paragraphs of said bill set forth, except that he admits that he has accused her of committing adultery, which accusations, however, were not without cause.

He denies that in Jan'y, 1872, he drew a sword and said he would run it through her; but he says, at the time alluded to by her, she was in company with one Thomas Dorsey, who he had full and sufficient reason to believe was her paramour at the time, and that he, the said

defendant. then and there drew the sword against him, the said Dorsey, and if, in fact, this occasioned her fear and apprehension, of which, however, he has no knowledge, it was on account of the said Dorsey and not for herself.

To the seventh paragraph of said bill, he answering, says it is not true that he struck her hard and cruel blows, or knocked her
8 down at any time, or drew her about by her hair, or was at any time guilty of gross and extreme cruelty towards her, as therein alleged, but he says that on divers occasions when he sought to expel the aforesaid Thomas Dorsey from his, the said defendant's, house and private room, after having repeatedly ordered him not to enter therein, and to desist from keeping the company of her, the said plaintiff, she interposed between them to defend him, the said Dorsey, and to hinder him, the said defendant, from expelling said Dorsey, and whatever blows or knocks, if any she may have received, were accidentally and not intentionally given her, and whatever force defendant may have used towards her, if any, was rendered necessary to such efforts and interposition aforesaid on her part; and defendant further says he never laid hands upon her or used force, except gently, and as was necessary in order to drive the said Dorsey out of his, defendant's, house.

9 And answering the eighth paragraph of said bill, defendant further says he admits that the plaintiff has kept boarders for some time past, but he denies that he contributed but one dollar for their joint support, and he denies that he has interfered or made her trouble, or embarrassed her by his unreasonable conduct; and on the contrary, he avers that he has contributed to their joint support all that he was physically able; and he says that he has never interfered or troubled or embarrassed her, except as hereinbefore stated in respect to the said Dorsey; and having fully answered the plaintiff's bill herein, he prays to be hence dismissed with his reasonable costs and disbursements in this behalf.

his
SIMON + JACKSON.
mark.

W'M A. MELOY,
Sol'r for Def't.

WASHINGTON COUNTY, *ss:*

Simon Jackson, being duly sworn, deposes and says he is the
10 defendant in the foregoing answer mentioned; that he has heard the same read, and knows the contents thereof, and that the same are true, except those matters therein stated on information and belief, and as to those he believes them to be true.

Sworn to before me, Nov. 12th, 1872.

R. J. MEIGS, *Clerk*,
By L. P. WILLIAMS,
Assistant Clerk.

Replication.

In the supreme court of the District of Columbia.

SARAH A. JACKSON
vs.
SIMON JACKSON. } 2915. Equity docket 12.

The plaintiff joins issue with the defendant's answer.

A. G. RIDDLE, *for Plaintiff.*

11 *Cross-bill.—Filed Nov.* 23, 1872.

In the supreme court of the District of Columbia the 23d day of Nov., 1872.

SARAH ANN JACKSON
vs.
SIMON JACKSON. } 2915. Equity docket 12.

And now comes the said defendant in the cause above entitled and files his cross-bill therein against the said plaintiff, and says:

1st. The said parties are residents of the said District of Columbia.

2nd. They were duly and lawfully married on or about the 25th day of November, 1856, in said District.

3. The said plaintiff, Sarah Ann Jackson, since the date of their intermarriage, as aforesaid, on divers days and times, to wit, in the said District of Columbia, on the day of July, in the year 1872, with one Thomas Dorsey committed adultery, and on various other days thereafter

12 with him, the said Thomas Dorsey, committed adultery, and at divers times, between the date of their marriage aforesaid and the commencement of this suit, she, the said plaintiff, has committed adultery with one Benjamin F. Barr, and with other men whose names are to defendant unknown.

4th. The said plaintiff holds the title in her individual name to certain real and personal estate in the said District of Columbia, particularly to part of lot four, in square number 818, on the ground-plan of the city of Washington, and more definitely described as the southwest corner of said lot and square, bounded twenty-five feet on 4th, and fifty-two feet six inches and a half on B street, S. E., with the improvements thereon, and hereditaments and s't appurtenances thereunto belonging, all of which property was acquired and paid for since the intermarriage of the parties, as aforesaid, with the money and the earnings of him, the said defendant, and in equity belongs to him.

13 And the said defendant prays that he may be divorced from the bonds of matrimony with the said plaintiff, Sarah Ann Jackson.

That, during the pendency of this suit, she, the said Sarah Ann, be enjoined and restrained from conveying, selling, mortgaging, or otherwise disposing of or encumbering any of the property aforesaid.

That she be decreed to convey and deliver up possession of the same to said defendant as and for his separate, absolute, and exclusive property.

And the defendant further prays for such other and further relief as to the court, upon view of all the premises and evidence, may appear just and equitable, with his costs and disbursements in this behalf expended.

his
SIMON × JACKSON.
mark.

WM A. MELOY,
Sol'r for Def't.

14 WASHINGTON COUNTY, *ss:*

Simon Jackson, being duly sworn, deposes and says he is the defendant in the cause of action above entitled, and whose name is subscribed to the foregoing cross-bill; that he has heard the said cross-bill read, and knows the contents thereof, and that the same are true of his

own knowledge, except those facts therein stated on information and belief, and as to those he believes them to be true.

his
SIMON × JACKSON.
mark.

Sworn to before me Nov. 22, 1872.

R. J. MEIGS, *Clerk*,
By L. P. WILLIAMS,
Assistant Clerk.

15 *Answer to cross-bill.—Filed Dec.* 5, 1872.

In the supreme court of the District of Columbia.

SARAH A. JACKSON
vs.
SIMON JACKSON. } 2915. Equity docket 12.

Answer of Sarah A. Jackson to the cross-bill of Simon Jackson.

1st and 2d. The said Sarah A. Jackson, for answer, says that the parties are citizens, and were married as is set forth in said bill.

3d. She denies each and every allegation of the 3d paragraph, and she says that it is untrue that she committed adultery with either of the men named therein, or with any man at any time.

4th. She denies each statement and allegation of the 4th paragraph. She says that she purchased the land upon which said houses were built, and built the same mainly with money received from her
16 father's estate, and the residue from the rents of the first buildings and the proceeds of her own industry and savings, and that the said Simon never at any time advanced or contributed a dollar toward the purchase of said land or the building of said houses, or either of them.

That she took the title to said property to herself as her own, and has since retained and managed as her exclusive and separate property.

And having fully answered said bill, she prays that the same may be dismissed.

By her counsel,
A. G. RIDDLE.

Replication to answer to cross-bill.

In the supreme court of the District of Columbia.

SARAH A. JACKSON
vs.
SIMON JACKSON. } 2915. Equity dock' 12.

The said Simon Jackson hereby joins issue with the said Sarah A. Jackson upon her answer to his cross-bill in this cause.

FRANCIS MILLER,
WM. A. MELOY,
Sol'rs for said Def'd't.

17 *Order to take testimony.*

In the supreme court of the District of Columbia.

SARAH A. JACKSON
vs.
SIMON JACKSON. } 2915. Equity docket 12.

It being made to appear that this cause is at issue, it is ordered, this

5th day of December, 1872, that the same is referred to Charles N. Thomas, esq., as special examiner to take and report the evidence.

By the court.

A. WYLIE.

18 *Testimony on behalf of compl't.*

In the supreme court of the District of Columbia, the 15th day of Feb'y, 1873.

SARAH A. JACKSON } *vs.* SIMON JACKSON. } 2915. Equity docket 12.

Depositions of witnesses produced, sworn, and examined on the part and behalf of the said complainant, by Cha's N. Thomas, special examiner by virtue of commission issued in said cause.

NANCY LEE, of lawful age, being produced as a witness on the part and behalf of the complainant, being first duly sworn, deposeth and says:

I have been acquainted with Mrs. Sarah Ann Jackson ten years. I lived in the house with her five years.

By Mr. Riddle:

Question. State what has been the habits of Mr. Jackson as to intoxication.

19 Answer. He drank while I was there. I hardly ever knew him to come into the house sober.

Question. How often, or about how often, do you think he was drunk; every day or every week?

Ans. About every day, pretty much. He had always been drinking enough to be disagreeable, and came into the house cursing and swearing and carrying on in that way. I was in the house five years, and he was accustomed to carry on in this way all the while that I was there. I think it has been going on three years since I left Mrs. Jackson's. I do not know what Mr. Jackson's habits have been since I left there.

Q. State how Mr. Jackson treated his wife during the five years in which you lived there.

A. I know that he was very cross to her, and one evening while I was there he threw a flat-iron at her, which came very near striking her head. He was very angry, and threw it with sufficient force to

20 break a hole through the wall. He had been drinking, as usual, and was very disagreeable. I merely happened there at this time, though I have often heard him quarrelling. I do not know exactly how long, but it was three or four years after I went there. I do not remember any other action of this kind; but he was very abusive in his language at times, and 'most every one about the "Hill" (Capitol Hill) can tell of him; he used loud language, and usually set the doors open. Mrs. Jackson never seemed angry, and did not appear to notice him; was usually singing, and much more forbearing toward him than I should have been.

Cross-examined by Mr. Miller:

When I first lived there he was driving hack, and after that I think he worked at the Patent-Office.

He was at the Patent-Office when I left there; I think he was
21 employed pretty much during the time that I lived there.

her
NANCY + LEE.
mark.

Sworn and subscribed before me this ninth day of December, A. D. 1872.

CHA'S N. THOMAS,
Special Examiner.

REBECCA BUNDY, of lawful age, being first duly sworn, deposes and says as follows:

By Mr. Riddle:

Question. Did you hear a conversation between Mr. and Mrs. Jackson about his having made any charges against her? And if so, relate it.

I let Mr. Jackson in when he came, and Mrs. Jackson said to him that he was quite a stranger; and he replied that he had been, but did not intend to be so any longer. He then said that he intended to come there and bring his bed; and she said that she had once driven
22 him away. She told him, also, that he had taken all of his clothes away; and he then began to abuse her. She requested him not to abuse her, because she had done nothing to him, and that she had been taking this abuse for fifteen years, and that she did not intend to take it any longer. He then replied that she could have Doctor Dorsey to come and bring his things there, and would not allow him to come. She then answered that Dr. Dorsey paid his way, and told Mr. Jackson that he should not be talking about her in that way; that he had slandered her enough. He then said that he had never said anything about her to any person, and that he did not know anything bad about her. This conversation took place in Mrs. Jackson's house on last Wednesday.

Cross-examined by Mr. Miller:

23 I am boarding with Mrs. Jackson, and I have been there about two months. It was about half past three o'clock in the afternoon when this conversation took place. Mr. Jackson remained there about ¾ of an hour. He did not bring anything with him. Dr. Dorsey is a gentleman who boards in the house with Mrs. Jackson. I do not know how long he has been boarding there. He was there before I came. He is a single man, and occupies the room next to mine on the second story back. Mrs. Jackson occupies the second story front room. The rooms do not join. I am married myself, and there are in the house four gentlemen, besides myself and husband, and Mr. Dorsey.

REBECAH BUNDY.

Sworn and subscribed before me this ninth day of December, A. D. 1872.

CHA'S N. THOMAS,
Special Examiner.

24 Dr. THOMAS GRAHAM DORSEY, of lawful age, being first duly sworn, deposes and says:

By Mr. Riddle:

Question. How long have you been acquainted with Mr. and Mrs. Jackson, and where have you resided during the time of that acquaintance?

Ans. I have been acquainted with them nearly two years. Since my residence in Washington, I have been boarding in the house with Mrs. Jackson. I am a practicing physician here. I don't know of ever having seen him, Mr. Jackson, other than when under the influence of liquor, sometimes a great deal more so than at other times, and at these times he was quarrelsome, noisy, and would seemingly invite contradiction, and he would fuss around until he succeeded in bringing about a quarrel. I have seen him under the influence of liquor to a lesser extent, and at other times very much so. Saturday night and on Sunday he was generally drunk, so much so that the air in the room
25 would be contaminated with the smell of liquor. I have seen him sober at times. I have witnessed instances of violence from him toward his wife. One day, as I came into the house, they were quarreling, and, from the conversation, it seemed to be about the property. I was standing by the stove warming myself, and after considerable threatening he struck Mrs. Jackson and knocked her down, and while she was down, he dragged her from the dining-room door into the kitchen by the hair. After this, he went up stairs and came down again, went out into the yard and took up the axe, and went in search of Mrs. Jackson, who had gone next door, and when I went out the side door, I saw him beating at the door of the house where Mrs. Jackson was, and calling for her, but the people in the house would not let him in. There was so much confusion at this time that I did hear him make any threats, except that he was calling Mrs. Jackson, and he was
26 very drunk at this time, and excited. I went to my office and remained there until dinner-time, about five or six o'clock in the evening, and when I came in he was still quarreling and calling her abusive names; but she was passing it off in the best manner that she could, singing and apparently taking no notice of him. He then desired to have a fight with me, and said that I would have to fight him. This took place some time last winter, I do not remember exactly when.

Cross-examination by Mr. Miller:

The conversation of which I speak was, I think, about their property. I heard Mr. Jackson say something about his father and these houses, and Mrs. Jackson said, I think, something about the money of her father buying these houses. The difficulty in reference to his knocking her down, took place after the conversation and after the
27 quarrel had been further continued. I do not know what they were quarrelling about subsequently, as it was not continuous. I am not positive whether he was quarrelling about me, as he was quarrelling about everything, and that includes me. At this time he spoke of my being in the dining-room sitting down, and he seemed to have very peculiar ideas about the boarders. I think he did complain of some suspicion of my intimacy with Mrs. Jackson. My relations with Mrs. Jackson were the same as with any lady. She had been very conspicuous in getting me practice, since I have been here, against the wishes of some persons living in the neighborhood, who thought she *she* should not be so particular in encouraging strangers, and Mr. Jackson was suspicious, because he could not see why she interested herself so much for me in this respect. When Mr. Jackson knocked Mrs. Jackson down, I did not wish to interfere; but I begged him to keep
28 quiet. I did not interfere. Mr. Jackson often complained of me for setting about the house and not remaining in my office, and complained in this way of all the other boarders, and threatened to throw their baggage out of doors. Mr. Jackson has been away from the house

of Mrs. Jackson for more than two months. I have been boarding with Mrs. Jackson ever since I came here, and reside there still. Mr. Smith lived in the house where Mrs. Jackson took refuge.

Redirect-examination by Mr. Riddle:

Ques. Was there at any time between you and Mrs. Jackson any improper intimacy?

Ans. There was not.

Q. Was Mr. Jackson jealous of the gentlemen about the house?

A. I do not know. I have never heard him complain of anybody except myself of those in the house. When he was drunk he
29 would say anything, and when he became more sober he would deny that he ever made any such accusations. I have even known him to be jealous of ladies in their association with Mrs. Jackson.

By Mr. Miller:

Ques. Were you ever in the bed-room with Mrs. Jackson; do you ever attend her?

Ans. I never was in her bed-room either with or without her. I have prescribed for her.

DR. T. GRAHAM DORSEY.

Sworn and subscribed before me this 9th day of Dec., A. D. 1872.

CHA'S N. THOMAS,
Special Examiner.

EPHRAIM E. JACKSON, of lawful age, being first duly sworn, deposes and says as follows:

I have been acquainted with Mr. and Mrs. Jackson about sixteen months, and I boarded in the house about twelve months. During my acquaintance with him (Mr. Jackson) he has been a man given to
30 excessive drink. Every time there was a quarrel in the house he would begin it, and had been drinking at the time. I am not certain about the number of times that Mr. Jackson was drunk, but I think about three times a week he would be wild drunk, and these fits would last him until bedtime. I have seen instances of violence on the part of Mr. Jackson towards his wife, and have heard him threaten her on one occasion. One Saturday night during last winter, about 6 or 6½ o'clock in the evening, he was drunk and went up stairs and brought down his sword and threatened to run it through Dr. Dorsey. Mrs. Jackson undertook to quiet him, and he told her that he would give her some of it, (the sword,) making threatening gestures with it. Dr. Dorsey was not there at the time; no one was present but Mr. and Mrs. Jackson and myself; his manner was exceedingly violent and angry; I left off boarding there on the first of October.

E. E. JACKSON.

Sworn and subscribed before me this 9th day of December, A. D. 1872.

31 HENRY SCISSEL, a witness produced on part and behalf of complainant, of lawful age, being first duly sworn, deposes as follows:

Mrs. Jackson, the complainant, is my sister. I have known Mr. Jackson, her husband, about 15 years, before he was married to my sister. Whenever Jackson can get liquor he drinks; he is a drunkard, and everybody around him knows that he is a drunkard. Ever since I have been acquainted with him he has been in the habit of getting drunk;

very often two or three times a week. Whenever he could get liquor he was bound to be in that way. About two months ago in a conversation with his wife I heard him (Jackson) say that "I haven't given you a dollar for twelve months, and I will be damned if I give you another while I live." I have been compelled to go to my sister's house and protect her from his violence and threats when he would be drunk.

By Mr. Meloy:

Ques. Mr. Scissel, when was you compelled to go to the pl'ff's (your sister's) house to protect her from her husband's threats?

32 Ans. It has been over three months ago that I went to protect her house—to protect her, as I testified on the direct examination. He was scolding her about the house, and one thing he said was—the most particular thing—that his meals were not fixed right. He complained about Mr. Dorsey gravely at that time. The most of his complaint was that he did not want him to board there. He wanted him to leave the house. He did not charge my sister with any intimacy with Dr. Dorsey in my presence, nor give any reason for wanting him to leave. I live on I street, between 3d and 4th sts. S. E. I have been living there over five years. I am a waterman. I have followed that business ever since I have been able to do anything. I have not been doing anything at it since last spring. Until last spring I have been following my business in the river, going up and down. I have been a pretty steady hand at my business, day after day attending to it. When I fol-

33 lowed my business regularly I was engaged nearly all the time, night as well as day. I have been working around the wharves this last summer, unloading vessels, &c., ever since last spring up to the present time, as I could get it to do. I would get to my work in the morning about 7 o'clock, sometimes at daybreak, and sometimes remain until 6, and sometimes later, and sometimes earlier. I have been occupied there right steadily, sometimes every day; sometimes the vessels would not come. I have been occupied right smartly this summer.

his
HENRY × SCISSEL.
mark.

Sworn and subscribed before me this 13th day of December, A. D. 1872.

CHA'S N. THOMAS,
Special Examiner.

34 SARAH ANN JACKSON, of lawful age, being first duly sworn, deposes as follows:

By Mr. Riddle:

Ques. I wish you to state the course of your husband's treatment to you since your marriage.

Answer. For the last 15 years he has treated me badly—giving me blows and pinching me in bed. He has always dealt me blows passing in the hall and in the parlor, when there was no one about, and pinching me no longer than last winter, in December, in my bed-room; he choked me and bit my fingers; this took place in the night; he came in drunk and fussing, as usual, stating that some one had been telling him news about me. I left the room and came down stairs. He injured my fingers, not at this time, but later in January, in the afternoon. He came in that afternoon quarreling about the property, and said that I

was endeavoring to rob him of his labor; I denied this, and said
35 that I could not rob him out of his labor, for he had none there;
that the property was left to me by my father. He replied, if I said that again, that he would knock me down, and the then struck me with his fist on my shoulder, and then dealt me another blow on the head, which knocked me down; by this time some one sent for the police, and when he knew that the police was coming he sat down and became quiet. My fingers were hurt at this time. Since this he has kicked and pinched me several times, until within the last four months, and has threatened to do so since, and would have done so had it not been that my brother was living with me. One evening, in last January, he requested me to go with him to the navy-yard to buy some clothes, and I started to go with him, when he began to curse and swear at me from my house nearly all the way to the navy-yard; a policeman came up
and told him that he must stop or he would arrest him; but as
36 soon as the policeman left us he would commence abusing me as
before. The policeman came to him the second time, and threatened to arrest him unless he desisted, and through my persuasion left him, after cautioning him not to repeat his abuse toward me. This was on the same evening and after the transaction testified to by Mr. Ephraim E. Jackson, and before we reached the store to which we were going the policeman returned the third time, and did arrest him after calling for assistance on the corner of Sixth and G S. E., and he was taken to the station-house, where he remained all night and returned the next morning. He was arrested and put under bonds to keep the peace, at the police court, about the 10th of last April. He had been fussing that day with me in the street. I was talking on the street with Dr. Dorsey, and he came up and threatened my life, and abused me very badly, cursing and swearing at me, so that I was compelled to enter a store
at the corner of 9th street to protect myself. He said that he
37 would kill me when he got me at home *at home*. He then left,
and I then went to the police court and took out a warrant for him, and he was bound over to keep the peace towards me for six months. After I had obtained the warrant, and before he was arrested, when I returned home from the court, he began abusing me again, and was quarreling with me when the officer came to serve the warrant.

Adjourned by agreement until Friday next, at 6 o'clock, Dec. 13th, 1872.

Met pursuant to adjournment.
Present: Mr. Meloy, for def't; Mr. Riddle, for plaintiff.

Cross-examination of Mrs. Jackson:

I have been married sixteen years last month. My husband left the
Patent-Office last August a year ago. He had a good place there,
38 and was steadily employed there six years and six months. He
did not behave himself while in the Government employ.

By Mr. Meloy:

Ques. You have said, in your direct examination, that your husband struck you with his fist on the shoulder, and then dealt you another blow which knocked you down; at what time was that?

Ans. In January. It was all done at the same time. It took place in my dining-room in the afternoon. Dr. Dorsey was present at the time. My husband did not use any hard words towards Dorsey at the time, as he was not there at the commencement. We had not been talking about Dorsey; my husband came in quarreling about the prop-

erty. I do not know my husband's age, though I judge that he is about 60. I will be thirty-six (36) next June. I do not know who sent for the police. Both of my forefingers were bitten at that time. I have been compelled to send for the policemen a great many times. As we
39 walked to the navy-yard he was abusing me about the same thing; it was the same evening that the quarrel took place at the house.

Ques. You speak of another time when you were talking with Dr. Dorsey on the street; what time was that?

Ans. It was about the 10th of last April. It took place on G st. bet. 9th & 10th S. E. Dr. Dorsey did not leave the house with me. I met him there on G st. He did not walk along with me. I just met him and spoke to him, and my husband came up. He, Dr. Dorsey, did not join me afterwards. Dr. Dorsey is still living at my house. He has been boarding there two years the first of next June.

SARAH A. JACKSON.

Sworn and subscribed before me this 13th day of December, A. D. 1872.

CHA'S N. THOMAS,
Special Examiner.

40 *Testimony on behalf of defendant.*

SARAH A. JACKSON
vs.
SIMON JACKSON. } 2915. Equity docket 12.

THURSDAY, *January 16th*, 1873.

Met pursuant to arrangement of counsel.

Depositions on the part and in behalf of the defendant.

SIMON JACKSON, the defendant in this cause, being of lawful age, and being first duly sworn, deposes and says as follows:

I am near fifty years old, and I have been married about 20 years. I was married here in Washington, on Capitol Hill, at the Catholic church, and I have lived here ever since. I do not know exactly when the property spoken of was purchased; it has been some time ago; I suppose about five or six years after I was married. It may have been
41 longer. The lot was *was* bought from Mr. Mathiot, and Mrs. Jackson paid for it, (the house;) the first house built on it by Mr. Samuel Norment, and paid for in installments; the second house built by contract; and the third house built by contract. The lumber for each one was purchased from Mr. Norment, but they were not built by him. Regularly I would come home every month and give Mrs. Jackson money—sometimes $30, sometimes $40—and she would take up the notes. They would be Simon Jackson and Sarah Ann Jackson, and sometime after, without my knowledge, they, the notes, were Sarah Ann Jackson. These notes, which Mr. Norment made up, and when the money was paid, each time he would return the note. I made payments to Mr. Norment, and when he was not there, sometimes Mr. King would receive the money. The first house I think cost $800. I couldn't possibly tell how much of this I paid myself; I depended entirely upon Mrs. Jackson, inasmuch as she desired to attend to it, and I
42 would sometimes ask her about the balance and she would tell me. I did not need to be told when the money was due, because

I knew that. The payments on the second house were made at different times. I would give her money to put with hers to make the payments on this house personally. I have made payments on the third house to the carpenter, Mr. Smith; and in regard to the plasterers, I would not always be there when the men received their money, but I gave her money to pay them. I do not know the cost of the last two houses, because they were built in such a way, by piece-meal, that I could not tell what they did cost. During the time that the first house was built I was working as a laborer about the city. I was working sometime' by the day, and sometime' by the month. I earned about $30 per month, sometimes more, sometimes less. The lot laid some considerable time before the first house was built—some twelve months—it laid there
43 a long time. While the second house was building I was at work—I disremember now where, and I cannot tell what I earned, but I know that I was at work. While the third house was building I was working at the Patent-Office, and I earned $60 per month, and I was there about six (6) years. I have been away from there some considerable time, and I left about the time that Mr. Wilson, Commissioner of the Land-Office, retired. The first two houses were not paid for at the time that I began my service at the Patent-Office. Mrs. Jackson certainly did contribute something toward the payment of these houses. I cannot tell whether she contributed more than I did. I know that I gave her a considerable amount of money, and was accustomed to make her laugh when I would come home and put it down in her lap. I never choked Mrs. Jackson or bit her fingers in her bed-room; but I will tell what I did do. I came in the dining-room one day in December,
44 1871. Dr. Dorsey and Mrs. Jackson were sitting near the stove. I said, look here, D'r, you certainly have no practice; and Mrs. Jackson looked at me, and I said, you had certainly better get up from here, and keep away from my wife. Mrs. Jackson said, sit still, doctor, and from that I struck at Dorsey. Dorsey jumped up and ran his hand down in his bosom. I then made for Dorsey, when Mrs. Jackson ran and caught hold of me around the waist. I shoved her away, and made for Dorsey again. I said, "Ann, I do not want to hurt you." Then she let go of me, and I made for Dorsey again, when she, Mrs. Jackson, came toward me with her hands uplifted, and caught me in the corner of my eyes with her fingers, and we must have been in close quarters, because I bit her fingers, and Dorsey's, too, at the same time. Dorsey had a book, and she, Mrs. Jackson, said, "doctor, go up stairs and get out of the way of the old devil," and told me that I had no call to say a word, that the doctor should stay with her the balance of her
45 life-time, and she and the doctor ordered me to leave the house. I never choked her or bit her fingers in her bed-room at night. The only time that I bit her was the time that she and Dorsey had me. I never had any way of pinching or kicking her; I never did since God made me. I remember going to the Navy Yard one Saturday night in January with Mrs. Jackson. I desired her to go for some time, and she did not desire to leave Dorsey to go with me, and I quarrelled with her all the way there, and was arrested on the way that night. The difficulties between me and Mrs. Jackson began about two months after Dr. Dorsey had been in the house. I had some difficulty before that, but that was squashed. I lived like the rest of men, at home, before Dr. Dorsey came there; there was no fighting.

Cross-examined:

My wife told me that she had some money which came to her
46 after she was married. I do not know where it came from, nor how

much it was. I suppose she used some of it to buy the lot. I cannot say that she didn't. This money she received after her father died. She did not buy the horse and carriage and harness for me at $700. She received the benefit of it; I drove it, used it, and handed her the proceeds. I do not know how long I drove the carriage. The horses were used up when they were bought; one of them died. I do not know how much they sold for; Mrs. Jackson sold them and received the money. Mrs. Jackson took in washing, and earned money during all this while, and worked faithfully. My money kept up the house, the furniture, &c., which I earned while I was at the Patent-Office. My money bought the carpet and bedstead, &c. Mrs. Jackson has been keeping boarders some considerable time. Dorsey was the first one. I never threatened to turn the boarders from the house, except Dr. Dorsey. I was arrested twice for quarreling with Mrs. Jackson;
47 I do not know the last time; about six months ago I was put under bond by her at the police court. I have signed notes for things about the house.

Adjourned to Monday the 20th inst., at six o'clock p. m.

Met pursuant to adjournment.

Some of the notes I received from Mr. Norment, and some from Mr. King, his clerk. I do not know how often I paid them; but the notes came due every month.

The defendant here offers in evidence the accompanying notes, marked Exhibit A 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 to 34.

EXHIBIT A 1.

$5 WASHINGTON, *Dec.* 14, 1857.

Fifty-three months after date we promise to pay to the order of Samuel Norment five dollars, for value rec'd, with interest, at the Bank of Washington.

SIMON × JACKSON.
SARAH × ANN JACKSON.

Witness: W. F. NORMENT.

48 (NOTE.—There are filed 33 other notes, all for the sum of ten dollars each, bearing same date and signed similarly to the foregoing.)

These notes are given in payment of the house and lumber. I think they were given for the little house. I mean that Mr. Norment built the large house, and that these notes were given in payment of the installments due thereon.

The defendant here offers these receipts in evidence, marked Exhibit B 1, 2, and 3.

SIMON × JACKSON.
his mark.

Witness: CHA'S N. THOMAS.

Sworn and subscribed before me this 20th day of January, A. D. 1873.

CHA'S N. THOMAS,
Special Examiner.

EXHIBIT B 1.

Rec'd of S. A. Jackson, $50 on ⅔.

S. NORMENT

DEC. 2, 1865.

[2-cent stamp, cancelled.]

49 EXHIBIT B 2.

$50.00 Rec'd of S. Jackson fifty dollars, in full of lumber bill to date.

S. NORMENT.

MC'H 4, 1869.

EXHIBIT B 3.

Rec'd of Simon and Sarah Jackson fifty dollars, on a/c of lumber bill and house.

S. NORMENT.

DEC. 14, 1857.

JOHN JACKSON, of lawful age, a witness produced on the part and in behalf of the defendant, being first duly sworn, deposes and says: I know Simon Jackson and his wife, Sarah Ann Jackson. I am Simon Jackson's brother, and I have lived here about seven years. I have been in the habit of visiting my brother's house. My brother and his wife were sometimes very disagreeable toward each other while
50 I was there, and sometimes they were very pleasant. I remember when my brother was sick; I do not know exactly in what year and month; but it was year before last gone. I was with him two months, but he was sick longer. I remained with him because he requested me not to leave him. I attended to him, his wife attended to him, and his friends attended to him during this time. I did not see anything of Mrs. Jackson while my brother was sick, although I was accused of it; but what I saw took place while I myself was sick, and my brother was working at the office. I saw a gentleman come in and go up in his (my brother's) bed-room and shut the door. Mrs. Jackson was there with him. I did not take notice how long he stayed. I did not see him but twice; company did not usually go in this room, but always went into the parlor. I do not remember the name of the gentleman; he was a preacher at the Bethel church down below the Capitol. This took place more than a year ago.

51 Cross-examined:

I was so sick at this time that I could scarcely walk. I was in the room, in the kitchen, standing there at the time. I cannot tell what time, but it was in the morning. I know that Mrs. Jackson was up stairs, because she went up before him and they both went up together. I could see the room-door from the kitchen. Mrs. Jackson was foremost. I first told this one day when my brother was talking this case over to me, and I told him that I saw something which I did not like while I was there sick, although Ann, his wife, told my brother that he had me there watching her. I do not remember the man's name who went up stairs. This was in the house where they live now. I was bred and born in Maryland, but when I came here I came from New Orleans. I saw him twice, but I cannot tell the time; I was standing in the kitchen the first time I saw him; I was there in the passage leading from the
52 kitchen. I saw the same man go up stairs from the passage. I do not know how much time intervened between the two occurrences. The man's name who went up stairs was Turner. I do not know exactly how long ago this took place, but it was year before last gone.

his
JOHN JACKSON.
mark.

Witness: CHA'S N. THOMAS.

Sworn and subscribed before me this 20th day of January, A. D. 1873.

CHA'S N. THOMAS.

MARY JANE ADAMS, a witness produced on the part and in behalf of the defendant, being of lawful age, and first duly sworn, deposes and says as follows:

I am acquainted with the parties to this suit. I lived with them twice; the first time about the middle of May of last year, and remained
53 until the middle of July. Mr. Sadgnar, Mr. Rose, and Mr. Ephraim Jackson boarded there at this time. Dr. Dorsey was there, but I do not know whether he boarded or not. I mean that I do not know whether he paid board or not. I have seen Dr. Dorsey together four times; twice in her parlor and twice up stairs; once in his bed-room, and once in her bed-room up over the hall. The first time I saw them was in her parlor; they were on the floor; they were doing like man and wife ought to do. She was dressed down stairs. The second time was up stairs in Dr. Dorsey's bed-room. She was not dressed here; she had but the one piece on. The third time was in her little room over the hall; she was dressed here. They were on a little iron bedstead in this room. The fourth time was in the little room over the hall.

Cross-examined:

I have never had any trouble with Mrs. Jackson, but with her
54 boarders. Mrs. Jackson discharged me after I had told her of her conduct. I told her of her conduct because I saw her that Saturday, and she discharged me on Monday. I told what I saw to two members of her, Mrs. Jackson's, church, Mrs. Brown and Mrs. Thomas. I told Mrs. Brown about noon of the same day that it occurred, which was on Saturday. This was the last time that I saw Mrs. Jackson with Dr. Dorsey. I did not tell Mrs. Jackson on Saturday, because I didn't like to. I hinted it to her, but I came right out Monday. I told her of all of it on Monday. I did not tell her of the other times, but I told the two women spoken of about it on the day that the occurrence took place, and asked them to come and see, but they would not come. The two first times were in the parlor. I had been there a month when the first time took place. It was in the daytime, in the parlor. No one was in the house but those two. She had sent me to carry home
55 clothes, and when I came back I found the windows shut, the side-door fastened, and I went around to the front door and found it open and went in. I went up stairs and looked in the rooms and could not find Mrs. Jackson, and went into the kitchen, then in Mrs. Brown's, and she was not there, and I then came back and looked in the front parlor, and there in the back parlor I found Mrs. Jackson and Dr. Dorsey. I came right away; I did not say anything to them; the doors were open; it was about noon. I then went into the kitchen and began washing. I told Mrs. Brown and Mrs. Thomas of this that day. The two times were in the parlor; they were again in the afternoon. I do not know about what time, but in the afternoon they were in the front parlor, Mrs. Jackson and Dr. Dorsey, on the floor. I went in to ask her what she would have cooked for dinner, but she did not answer me. She was sitting down. She and the doctor got up, but
56 neither of them said anything. I went away and left them. The windows were closed but the doors were open. I told Mrs. Brown of this also the same day. I remained there because I was working for my living, and I told it because she was putting herself up so high. I told her husband the same day, that Saturday. He told her, Mrs. Jackson, of it. It was in June that I saw them the next time. I do not know exactly how long after the first time. It was in the day-time, in the afternoon, down stairs in the parlor. This was the third time. They

were on the floor in the front parlor. The doors were open. I told Mrs. Brown of this also. The fourth time was up stairs, in the day-time, in Dr. Dorsey's room. I do not know what time in the day; on the doctor's bed. Mrs. Jackson had not her clothes on; it was in the forenoon. I do not know whether the doctor had his clothes off. I did not go in, but I could see from the back yard every action through the window; the blinds were not closed. I was hanging up clothes. I know that
57 it was Mrs. Jackson and the doctor. He had his draws on and his pants were off. I do not know exactly what day of the week this was; it was not Monday. I never saw them but four times. I cannot say what day the last time took place on. I told Mrs. Brown of this also. I quarreled only with one boarder, Mr. Rose. Mrs. Jackson told him that I had accused her of Dr. Dorsey, and Mr. Rose was a friend of Dr. Dorsey, and he, Rose, came out in the kitchen to beat me. I heard her, Mrs. Jackson, tell him to beat me. I did not say anything to Mrs. Jackson about this, although I heard her tell Mr. Rose to beat me.

Redirect examination:

The last time that I saw them was in the little room over the hall. The time next to the last time was in Dr. Dorsey's bed-room. I only saw them four times, twice in her parlor, on the same day, once in his bed-room, and once in her bed-room over the hall.

58 Recross-examination by Mr. Riddle:

Ques. Where were you standing when you saw them in this act the 3d time?

Ans. I was in the back yard, hanging up clothes. I saw them through the window. I cannot tell what day of the week it was. I cannot tell the day of the week the last time that I saw them. I slipped up stairs and looked when I saw them in her little room over the hall. The door of this room was on a jar. What excited my suspicion was that all the doors were shut through the house, and it was so still that I slipped off my shoes, stole up stairs, and found her door ajar large enough to put my head in, and I peeped, put my head in and kept it there long enough to see her and Dr. Dorsey together like man and wife; they were not kissing; they were doing as man and wife would do if they were married. I did not watch them until they were through; I only
59 watched them as anybody would watch me if I were doing anything like that. I cannot tell what time it was. I was not frightened. She knew that I was there, or she would not have remained in there. This was the last time. I didn't tell Mrs. Brown of this right then. I do not know what day of the week this was. I told Mrs. Thomas and her husband of this that same day.

MARY JANE her + mark. ADAMS.

Witness: CHAS. N. THOMAS.

Sworn to and subscribed before me this 20th day of Jan'y, A. D. 1873.

CHA'S N. THOMAS,
Special Examiner.

Adjourned to Wednesday at 6 o'clock.

60 Met pursuant to adjournment.

W. A. MULLOY, a witness produced on the part and in behalf of the defendant, being first duly sworn, deposes and says:

That he resides at No. 6 3d street east, crier of the supreme court, D. C., and that he is acquainted with the parties to this suit. I have

known Simon Jackson some 25 or 30 years, and I have known Mrs. Sarah Ann Jackson from 15 to 20 years. The property on which I believe they reside, on the southwest corner of lot 4, in square numbered 818, bounded 75 feet on 4th street and 52 feet 6½ inches on B s't, southeast, and they have resided here for a number of years. I have lived on sq. 787, about two squares distance, for thirty (30) years. The main building or resident house is a very fine building. There are three houses, one recently built. The last one built a year or two ago. When the house where they now live was completed they moved into it,
61 and have been living there ever since to the best of my knowledge. I guess this was about 17 years ago or more. Simon Jackson had a horse and carriage in the stable where he now is employed, and passed my house nearly daily for many years, both while he drove hack and was employed at the stable. It was my impression that the hack was his. It was so considered; also the horses. He was also employed at the brick-yard at times, and sometimes drove for other people. About 1866 or 1867 he was employed at the Patent-Office for a number of years. I cannot say how many. Either was messenger or laborer; I think laborer. I always looked upon him to be an industrious man. I know him to be so yet.

By Mr. Meloy:

Ques. What do you know about the manner in which Simon Jackson disposed of his earnings?

Ans. I am unable to say. They accumulated that property between them. He was not wasteful or careless with his money, to my
62 knowledge, or extravagant. I never knew him be idle for any length of time, except the time that he was sick from an injury to his leg.

Ques. Did you ever know him to be drunk?

I cannot say that I did. I believe that he is a man who drank ever since I have known him. I never saw him stagger in my life. I have seen him laughing, playful. I never saw him quarrelsome. I have been a magistrate, and, for a number of years, an officer of the 5th ward under the old corporation; for seven or eight years a police officer and commissioner, and for three terms a magistrate, and my office, I think, was nearest to the place of his occupation and residence. During all that time I never knew of his being arrested for any offence. I have attended to business for both parties, and drew a will (Ex. 2) recently for Simon Jackson, and delivered it to him. I know nothing at all of their marital relations except what I have heard.

W. A. MULLOY.

Sworn and subscribed before me this 30th day of Jan'y, A. D. 1873.

CHAS. N. THOMAS,
Special Examiner.

63 *Exhibit 2 to Mulloy's testimony.*

In the name of God, amen. I, Simon Jackson, of the city of Washington and District of Columbia, being in perfect health of body and sound and disposing mind, memory, and understanding, but considering the certainty of death and the uncertainty of the time thereof, and being desirous to settle my worldly affairs, and thereby be the better prepared to leave this world when it shall please God to call me hence, do therefore make and publish this my last will and testament in manner and form following, that is to say:

First and principally I commit my soul*d* into the hands of Almighty God and my body to the earth, to be decently buried at the discretion of my executrix, hereinafter named, and, after my debts and funeral charges are paid, I devise and bequeath to my beloved wife, Sarah Ann Jackson, all that part of lot No. 4 in square 818, with the improve-
64 ments thereon, together with all my furniture and other personal effects, to have and to hold, use, occupy, and enjoy, and to have full power to sell and dispose of at her own free will and desire; and I do make and appoint my wife, Sarah Ann Jackson, my sole executrix in this my last will and testament, as witness my hand and seal this 16th day of May, A. D. 1864.

his
SIMON + JACKSON. [SEAL.]
mark.

Witness:
H. H. MCPHERSON. [SEAL.]
R. B. FERGUSON. [SEAL.]
W. A. MULLOY. [SEAL.]

65 JOHN W. MEAD, a witness produced on behalf of the defendant, being first duly sworn, deposes and says:

I know the parties to this suit. I have known Mr. Jackson some 17 or 18 years. I reside about 2 squares from where they live.

I have lived here since 1854, and I have lived in the neighborhood close by before that. I remember when the houses were building. I have seen Mr. Jackson passing, driving his carriage on the street when I would pass, and at his house frequently; sometimes daily and sometimes two or three times a day. I always looked upon him as an industrious man. He always appeared to be employed at something. I never saw Jackson drunk. I have seen him drink. I have seen him probably a little lively, but I never saw him stagger or anything of that kind. I know nothing of the domestic relations of Mr. Jackson and his wife.

66 Ques. by Mr. Miller. Have you any idea of the value of that property?

Ans. I was assessor of that ward, and I would assess the ground at about 30 cents a foot. I suppose the 3 houses are worth about $2,200.

JOHN W. MEAD.

Cross-examination waived.

Sworn and subscribed before me this 20th day of January, A. D. 1873.

CHA'S N. THOMAS,
Special Examiner.

67 SARAH A. JACKSON *vs.* SIMON JACKSON. } 2915. Equity docket 12.

Rebutting testimony on behalf of the complainant.

SAMUEL NORMENT, a witness produced on the part and behalf of the complainant, of lawful age, being first duly sworn, deposes and says:

Ques. State whether you are acquainted with the parties to this suit, Sarah Ann Jackson and Simon Jackson, and how long have you known them.

Ans. I am. I have known them 15 or 16 years, and may be longer.

Mrs. Jackson came to me to build her a house. I employed a carpenter, and contracted with him to build the house. She told me that it was out of her own money. I cannot recollect exactly now the amount.

She gave me notes, and I for her husband, Simon Jackson, to
68 unite with her in the note in giving a deed of trust. I consulted my lawyer about the matter, and he told me that, under the law, I had better get her husband to unite with her in giving the deed of trust. I think on one or two occasions her husband came down with her to see me. I always understood that the money was hers, but whether he contributed anything toward the payment I cannot tell. The notes were placed in bank, and Mrs. Jackson would come by and show me that she had taken them up. I have frequently sold Mrs. Jackson lumber, and frequently sold them coal and wood. It was generally entered as a purchase in the name of Sarah Ann Jackson. I am the president of an insurance company, and the property is insured in the name of Mrs. Jackson. She has built two or three houses, and the material for the two last was furnished also by me. Mrs. Jack-
69 son came down to me alone, at the building of second house, and asked me if I could trust her for the lumber, and I told her that if she was as faithful in paying this as she had been in paying the other, that it was all right; and I furnished her the material. When Mr. Jackson came with Mrs. Jackson he merely accompanied her as her husband, and took no part in making the bargains or contracts. The third house was contracted for and the material furnished in about the same way.

Cross-examined:

I think about 4 or 5 years ago—I cannot say exactly—the 3d house was built. The second house, I think, was built some 4 or 5 (five) years before the third or last. The first house was built just prior to the date of the notes in evidence. The first house, I think, cost about
70 $700 or $800—I believe $800. I gave them a long time to pay the amount—upward of 53 months. I cannot tell the cost of the last two houses, as I did not build them, but the material for each of the others, I think, cost about $250 each. I do not know, of my own personal knowledge, where the money came from with which the material was paid for.

SAMUEL NORMENT.

Sworn and subscribed before me this 10th day of Febr'y, A. D. 1873.

CHA'S N. THOMAS,
Special Examiner.

Dr. A. W. MILLER, a witness produced on the part and in behalf of the compl., of lawful age, being first duly sworn, says:

I have known Sara Ann Jackson in the neighborhood of 18 or
71 20 years. She lived in my house a little over 3 years, and left my house to be married. I have attended upon her, her husband, and brother as a physician. I am well acquainted with her. She lived with me all of the three years spoken of, and was never out of temper. My wife nor myself never had anything to say to her, and her conduct was most exemplary. Her reputation has never been questioned for chastity and virtue, to my knowledge.

Cross-examined:

I reside now at 820 K st. S. E., about ¾ of a mile from Mrs. Jackson's house. I have been residing here about 3 years. I do not think that I

have been in the house of Mrs. Jackson more than 3 or 4 times within the last 18 months. I never saw any difficulty between them, and
72 they seemed to live together very harmoniously, and I was surprised when she requested me to come here and tell what I knew of her.

A. W. MILLER, M. D.,
No. 820 K St. S. E.

Sworn and subscribed before me this 10th day of February, A. D 1873.

CHA'S N. THOMAS,
Special Examiner.

Mrs. EDINBOROUGH BROWN, a witness produced on the part and in behalf of the complainant, being of lawful age, and first duly sworn, deposes and says:

I reside at 406 So' B s't, which is the third door from the house of Mrs. Jackson. I have known Mrs. Jackson between 12 and 13 years, and for the last six or seven years I have been very intimately acquainted
73 with her. I also know numbers of people who know her. She and I belong to the same church, and joined the same day. Her reputation for chastity and virtue is good, and I never heard anything said against it, either in the church or out of it. I know that Mrs. Jackson employed Mary; I do not know the rest of her name. I do not know when she came there, but she was the' 4th of July, and had been there one or two months previous. Mary never said anything to me about her finding Mrs. Jackson and Dr. Dorsey in any improper position together.

Cross-examined:

There is no other Mrs. Brown on that street that I know of, nor was there at the time spoken of. I remember that Mary was there on
74 the 4th of July, because she came in my house to tell me that there was a small-pox wagon out in the street, and something about the boarders giving her some money. I never heard anybody express suspicions of Mrs. Jackson's chastity, except what I have heard Simon Jackson say when he was drunk. I have been a frequent visitor of Mrs. Jackson's, passing in and out 4 or 5 times a week. I have seen Dr. Dorsey there. I never saw anything worth noticing in the deportment between Mrs. Jackson and Dr. Dorsey. She treated him as she did the rest of the boarders. The only person whom I have heard say anything about Mrs. Jackson was her husband, and what he said was when he was drunk; but when he was sober, he would praise her as the best woman in the world. Mary never said anything to me about
75 Mrs. Jackson and Dr. Dorsey. She has spoken of Dr. Dorsey's being a nice man; a nice doctor; and how much she liked him, when she first came there.

EDENBOROUGH BROWN.

Sworn and subscribed before me this 10th day of February, A. D. 1873.

CHA'S N. THOMAS,
Special Examiner.

Mrs. SARAH ANN JACKSON, the complainant in this suit, being duly sworn, deposes and says:

I received $2,000 from my father two years before I was married, and

I had it all when I was married. I spent $750 for the carriage and horses. I bought them for Mr. Jackson. One of the horses died, and I bought another. He drove them about from one grog-shop to another, and the horses became broken down, and were sold for $130. I
76 bought the horses about 2 years after my father died, and about 5 years after I was married. Mr. Jackson never made much with the team. He did not make enough with it to support the house. I bought the land about 15 years ago from Mr. George Matthiot, and I paid $300 for it, and this is the deed. (Complainant here offers in evidence deed marked Ex. A.)

I have always paid the taxes on the property, and I have paid the insurance; and when I received the key I paid $300 on the first house. It cost $800. I paid for it. I received the money from my father to pay for it. It is the same house that Mr. Norment built. I took up and paid the notes offered in evidence. The second house was built about 11 years ago, during the war, and cost $600. I worked for the money with which I paid for this house, and also received rent from it. I
77 took in washing and ironing, and did a great deal of it. The house rented for $20 per month, and I paid on it $15 per month until paid for. I bought the material of this house from Mr. Norment. The third house was built 4 years last May, and it cost $650. I paid for this house also. I worked for the money with which to pay for it, and received rent from it, together with what I made off my boarders, all contributed to pay for it.

(The complainant here offers in evidence receipts marked Exhibits 1, 2, 3, 4.)

The other receipts are in the hands of Mr. Jackson. After the sale of the team Mr. Jackson worked in the brick-yard. He was sometimes at work, and sometimes did not do anything. He never worked steadily until he went into the Patent-Office about the 4th of March, 1865. He was there six years, and received $60 per month. While he was
78 working in the Patent-Office he has given me sometimes $15, sometimes $20, and the highest he ever gave me during any one month was $30. I spent the money for the use of the house, board, &c. I have been keeping boarders off and on for about 4 or 5 years. Since Mr. Jackson came out of the Patent-Office he worked on the streets, but has not earned much, and at present I think he is working at a stable on East Capitol street. At the time that John Jackson was sick at my house, Mr. Jackson and myself occupied the front room in the second story, and during the time that Mary Jane Adams was at my house Dr. Dorsey occupied the room in the second story back. His bed was on the back side of the room. This room is the largest in the house. The bedstead is a low one.

Cross-examination:

79 My father died 16 years ago in the month of May, the same year that I was married. He died after we were married, I think about six months, in May, 1857. He gave me $2,000 two years before I was married. I kept this money in the house, and when I was married I had it all. My father had three children beside me. I think my father made a will, but the will had nothing to do with the money which he gave me. His name was Jeremiah Cissel. I do not know what property he left the other children. He had no property, land or houses, that I know of; he sold it all before he left Maryland. I have one brother living, Clinton Cissel. I do not know what provision my father made for the other children. He always said that he wanted me to have the money,

and did not wish that I should have to work a day for anybody, but I have worked very hard since I have been married. I paid $300 for the lot, and $300 on the house, out of the money that my father gave
80 me. I did not pay all the money on the house because I did not have it to pay. I spent $40 of it for a suit of clothes for Mr. Jackson, and I bought the team. I have spent some $800 on him. I kept the money in the house after I was married until I had paid it all out. I had $1,300 in paper, and $700 in gold. I do not remember how long after I was married that I built the first house. Mr. Jackson kept the team about two years. I do not know what Mr. Jackson did before we were married, but he commenced drinking and cutting up soon after my father died, and has been at it ever since. He would sometimes be without it two days at a time. There never was a time when he was without it. He was most of the time drunk. There was nothing I could do to please him when he was drunk. He has been at this all the time to the time that the suit was brought. I have done everything that I could to live with him. I commenced taking boarders over 4 years. I
81 kept them about six months, and they then moved into the last house that I built, which they rented. I began taking boarders again about a year ago the first of last June. My first boarder was Dr. Dorsey. The largest amount that Mr. Jackson ever gave me at any one time was $30. He gave me this while he was at the Patent-Office. I do not know how he spent the rest of his money. As to the will I know nothing about it until Mr. Mulloy sent for me to come and hear it read. It has not been in my custody ever since. Mr. Jackson had it some 4 or 5 years, and he then told me that I could put it among the rest of the papers, and I did so. Mr. Mulloy read the will to me. I always thought it was foolish in him to make a will, as he, Mr. Jackson, had nothing to will. I did not tell Mr. Mulloy this, but I told Mr. Jackson so.

SARAH A. JACKSON.

Sworn and subscribed before me this 10th day of February, A. D. 1873.

CHA'S N. THOMAS,
Special Examiner.

82 *Exhibits to testimony of Sarah A. Jackson.*

EXHIBIT 1.

WASHINGTON, D. C., *Feb. 22nd*, '68.

Received, of Mrs. Sarah A. Jackson, fifty-two dollars & fifty c'ts, ($52.50,) on account for carpenter-work on house so. B s't, Capitol Hill.

FREDERICK SMITH.

EXHIBIT 2.

WASHINGTON, D. C., *March 1st*, 1869.

Mrs. Jackson to Green & Williams, Dr.

27 y'ds Bruss. carpet, $1.75	$47 25
Making & laying, 15	4 05
	$51 30

Rec'd payment.

GREEN & WILLIAMS,
Per HARDING.

EXHIBIT 3.

WASHINGTON, D. C., *Feb. 6th*, 1869.

Mrs. Jackson bought of Green & Williams:

Feb. 4th.	$24\frac{5}{6}$ y'ds Bruss. carpet, $1.75	$43 49
	Making & laying, 15	3 73
		$47 22

Rec'd payment.

GREEN & WILLIAMS,
Per HARDING.

EXHIBIT 4.

WASHINGTON, D. C., *April 18th*, 1868.

Mrs. Sarah A. Jackson bought of Geo. M. Barker:

M'ch 30.	2 tramsons, 100, 100	2 00
April 2.	200 f't 3-in. band-mold., 300	6 00
" "	73 f't $\frac{5}{8}$ beeds	92
" "	Hauling	50
18.	Medallions	1 00
" "	32 f't 1-in. base-mold	40
		11 42

83 Dr. T. G. DORSEY, being duly sworn, deposes as follows:

Question. Did you ever at any time have a criminal connection with Mrs. Sarah Ann Jackson?

Ans. No, sir; during the time that Mary Jane Adams was at Mrs. Jackson's I occupied the room with Mr. Ephriam Jackson, and the bedstead was in the southeast corner of the room—a low bedstead.

(Complainant here exhibits a diagram of the first and second floors, which witness testifies as being correct, which is attached herewith as ex., marked .)

Cross-examined:

In warm weather I never moved my bed near the window. The yard is below the first floor about $\frac{1}{2}$ foot, and is level. My offices were one on $4\frac{1}{2}$ street, on the island, and the other was in Mrs. Jackson's
84 house. I left this office at house about two months after I had been there. I started practice at the time that I came to Mrs. Jackson's. My practice was not extensive the first two months. I was in the office sometimes; sometimes out. I saw as much of Mrs. Jackson as any one else would see of her had they been in the house. I do not know the number of times I saw her. I saw her at meals; I saw her passing through the house. I occupied the entry, the dining-room, or the parlor as an office. My practice was not sufficient to have a particular designated room as an office. I did not occupy any special room as an office. My bed-room was front, second story. When I was pursuing my studies, waiting for patients, &c., I would either sit out on the porch or up in my room, and I received patients for any ordinary
85 case like *like* receiving a call, either in the entry, out on the porch, or in the dining-room. On the 4th of July last I was in the house all day. I saw Mrs. Jackson and all the persons in the house that day. I saw Mary Jane Adams also. I do not recollect being in

either of the parlors with Mrs. Jackson. Mr. Jackson, Mr. Sadgmar, and the other boarders were all in the house that day the entire day; none of us were out. We were all together all that day. I never tied Mrs. Jackson's garter, or any other lady's garter. I am positive of that. I never took liberties with Mrs. Jackson of any kind whatever. I paid $20 per month board. I have no receipts. There are two boarders at Mrs. Jackson's and several lodgers—Mr. and Mrs. Bundy, Mr. Jos. Jackson, Mr. Howard, and myself. I do not recollect when they
86 came in. It was before Christmas. Mr. Thomas Washington and family, with three children, came just before Mrs. Bundy, and remained a month. Mr. and Mrs. Bundy came in the fall, Mr. Jackson soon after, and Mr. Howard also. I cannot tell exactly when the people came. Mr. and Mrs. Bundy came first; and there is another, Mr. Defrees, whom I forgot to mention. Mr. Sadgmar and Mr. Rose, Mr. Ephriam Jackson, left before Mrs. Brundy came about a week. There was a week or more that I was the only lodger.

DR. T. G. DORSEY.

Sworn and subscribed before me this 10th day of February, A. D. 1873.

CHA'S N. THOMAS,
Special Examiner.

Exhibits to testimony of T. G. Dorsey.

87

EXHIBIT 1.

Plan of Ground Floor.

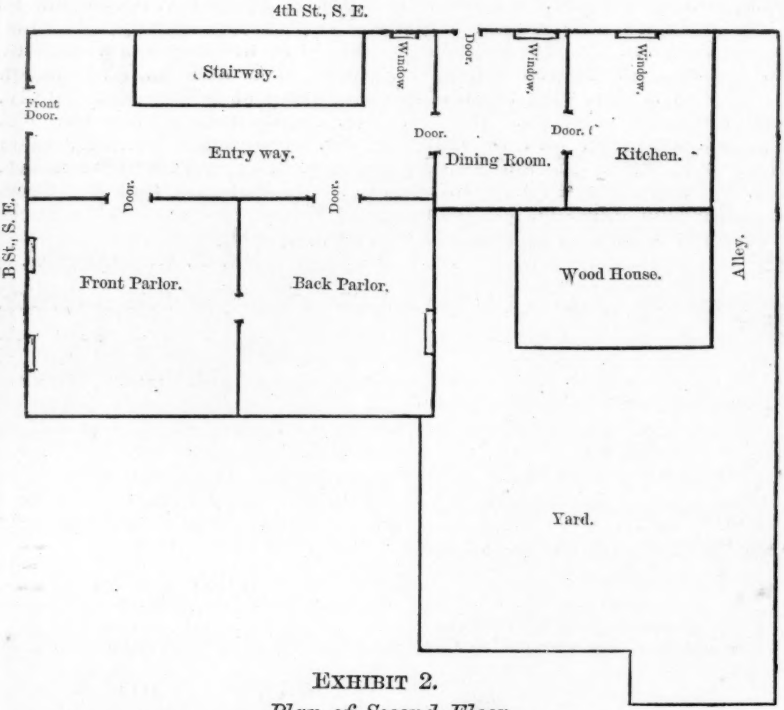
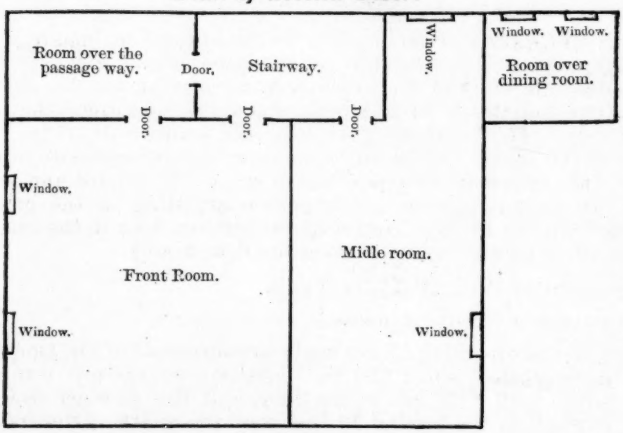


EXHIBIT 2.

Plan of Second Floor.



88 HENRY SISSEL, being of lawful age, and first duly sworn, deposes and says:

My sister had $2,000 cash money when she was married, that her father left her. That is the candid truth, certain. He did not leave it to her by will, but he gave it to her grat'i'ously two years after he left the country, and it being suggested by Mrs. Jackson two years after he left the country. He gave her this money about two years before his, my father's, death. He lived in the city, after he moved here, may be two or three or four years, something like that, I do not know the length of time. He came from St. Mary's County, Maryland. He obtained this money from his farm, he had a large farm, attending to his crops. He owned every foot of his farm, and owed nobody a dollar. I suppose there were about 70 or 80 acres in his farm, may be more. It was in S't Mary's county, Maryland, between Smith's Creek and Colvert's Bay.

Ques. Upon what road was this farm?

89 It was on a road in S't Mary's County, Md. My father's name was Jeremiah Sissel. We had numerous neighbors. John Clark, Dr. Evans, or Dr. Sidney Evans, Jimmie Locar, James Kirk; they were all that were around my father. There was a creek between us, Calvert Bay. My father sold the farm about 19 or 20 years ago, as near as I can come to it. He came here as soon as he sold off everything that he had. He received $2,500 cash money, lacking some $500. He gave my sister the money about two years before he sold the farm. I do not know whether my father made a will. If he did, we never saw it. I never received anything from my father's estate except the $100 which my sister gave me. There were three of us at the death of my father. My brothers did not get anything except the $100 which my sister gave to them. I have been living here ever since my father came, except when I was away on business.

his
HENRY + SISSEL.
mark.

Sworn and subscribed before me this 10th day of February, A. D. 1873.

CHA'S N. THOMAS,
Special Examiner.

90 EPHRAIM JACKSON, a witness produced on behalf of the complainant, being first duly sworn, deposes and says:

The diagram marked Ex. is correct as near as can be. During the whole time that Mary Jane Adams was there I occupied the room with Dr. Dorsey. The bedstead stood near the south wall, in the southeast corner of the room. The room is, as near as I can estimate, fully 12 feet wide. It is impossible for any one to stand in the yard and see the top of the bed or any one on it. A person standing in the passage-way leading from the kitchen, and near the kitchen-door in the kitchen, cannot see the stairway nor look upon the floor above.

Adjourned to Wednesday, at 6 p. m.

Met pursuant to adjournment.

Since the last meeting I have made measurement of Dr. Dorsey's room, as requested, and I find the distance from the top of the window-
91 sill to be 2 ft. 10 ins. to the floor, and the distance from the window-sill to the ground 13 feet, and the width of the room 13 ft. 4 in., and the length of the yard 28 ft. 2 inches. Distance from the parlor floor to the ground (yard) 1 ft. and 1 inch.

Cross-examined:

On the 4th of July last I was at home all day. I was with Dr. Dorsey all day, he, Sadgwar, Rose, and myself. I spent the day in our own room.

E. E. JACKSON.

Sworn and subscribed before me this 12th day of January, A. D. 1873.

CHA'S N. THOMAS,
Special Examiner.

92 REBECCA MALVIN, a witness produced on the part and behalf of the complainant, who, being first duly sworn, deposes and says that she resides at No. 340 Indiana av'e. I have been acquainted with Mrs. Jackson about 13 years. I am very well and intimately acquainted with her; I am also acquainted with her associates; and her reputation as a woman of virtue, as far as I have heard, has been good and upright. I never heard anything about except from Mr. Jackson when he was half drunk, and then he would take it back again the next day. I never heard anybody speak against Mrs. Jackson any more than that she was a very nice woman.

Cross-examined:

I visit Mrs. Jackson about twice a week. I have heard Mrs. Butler speak well of Mrs. Jackson; Mrs. W'm Lee, who lives on So. B
93 st., below Mrs. Jackson; Mrs. Malvin, my brother's wife, and a great many around the neighborhood—Mrs. Dunlap, and others, who said that she was a nice woman; that they liked her very much, and that she stood very well in her church. I never heard any one, except her husband, speak ill of her. I never heard any reports of any kind about her. I never heard her name associated with Dr. Dorsey's in any way. I have heard of his boarding at Mrs. Jackson's. I have heard of his difficulty with Mr. Jackson; that he, Mr. Jackson, did not want him there, but I did not know what the matter was. I heard of Mr. Jackson and Dr. Dorsey, but I did not know what the matter was. I did not know anything of it at all. I haven't found out yet what the matter is.

REBECCA MALVIN.

Sworn and subscribed before me this 13th day of January, A. D. 1873.

CHA'S N. THOMAS,
Special Examiner.

94 *Hearing ordered.—Feb'y* 26, 1873.

In the supreme court of the District of Columbia.

SARAH A. JACKSON *vs.* SIMON JACKSON. } 2915. Equity docket 12.

The clerk will place cause on trial-calendar for next special term.
Feb'y 26, 1873.

RIDDLE, *for Plaintiff.*

Cause set for hearing and placed on March calendar.
By the clerk.

Final decree of divorce and for conveyance.—Filed March 20th, 1873.

In the supreme court of the District of Columbia, the 20th day of March, 1873.

SARAH ANN JACKSON
vs.
SIMON JACKSON. } 2915. Equity docket 12.

This cause coming on to be heard on the bill, cross-bill, answers, replications, proofs, and exhibits of the parties, and having been argued by the respective counsel, the court finds, as matters of fact, that the defendant, Simon Jackson, was guilty of cruelty towards the
95 said Sarah A., as charged in her bill aforesaid; that the said Sarah has not been guilty of adultery, as charged in the said defendant's cross-bill aforesaid; and that the property described in the said cross-bill, to wit: the west forty feet of lot four, in square eight hundred and eighteen, according to the ground-plan of the city of Washington, in the District of Columbia, was in part acquired and paid for with money belonging to said Sarah at the time of her marriage with the said Simon, and for the rest with moneys earned by the joint efforts of said parties.

Wherefore it is, this 20th day of March, 1873, ordered, adjudged, and decreed, that the marriage relation heretofore subsisting between said Sarah A. Jackson and Simon Jackson be, and the same hereby is, dissolved.

And it is further ordered, adjudged, and decreed, that the title to the property aforesaid is held by said plaintiff in trust for both parties.

That from this day the said Sarah hold, as of her own absolute right, all that part of the premises aforesaid bounded as follows, viz:
96 beginning at the southwest corner of said lot four, square eight hundred and eighteen, running thence along Fourth street southeast fifty-seven feet; thence east at right angles with said street twenty feet two inches; thence parallel with said street to B street southeast; and thence with said B street to the point of beginning.

That within twenty days from this day said plaintiff convey in fee simple to the said defendant the west forty feet of lot 4, square 818, aforesaid, excepting therefrom the portion thereof above described, so as aforesaid reserved to and confirmed in her, and that in default thereof this decree operate as a full conveyance of the same, and that each party his or her own costs.

By the court.

A. WYLIE.

97 *Appeal to gen. term.—Filed April* 1, 1873.

In the supreme court of the Dist. of Col'a.

SARAH A. JACKSON
vs.
SIMON JACKSON. } 2915. Equity docket 12.

The plaintiff appeals from so much of the decree in this case as decrees that any part of the property described in the cross-bill belongs to the defendant and conveys and orders the same conveyed to him.

RIDDLE,
Sol'r for Plaintiff.

Appeal entered as directed.
By the clerk.
APRIL 1, 1873.

98 Proceedings before the supreme court of the District of Columbia in general term, commencing on the 3d Monday, 21st day of April, 1873; present, Justices Olin, Wylie, Humphreys, and MacArthur.

TUESDAY, *May 13th*, 1873.

Session resumed pursuant to adjournment; present, Chief-Justice Cartter and Justices Olin, Wylie, Humphreys, and MacArthur.

SARAH A. JACKSON
vs.
SIMON JACKSON. } 2915. Equity docket 12.

This cause coming on to be heard on the appeal of the complainant from a part of the decree rendered in this cause on the twentieth day of March, 1873, it is

Ordered, adjudged, and decreed that said appeal be dismissed, and that the decree aforesaid be, and the same is hereby, affirmed;

99 and it is further ordered that the complainant pay all costs incurred in consequence of said appeal.

By order of the court.

And from this decree the complainant by her solicitor prays an appeal, here now, to the Supreme Court of the United States, and it is allowed.

By order of the court.

100 In the supreme court of the District of Columbia, the 2d day of June, 1873.

SARAH ANN JACKSON
vs.
SIMON JACKSON. } No. 2915. Equity.

Know all men by these presents, that we, Sarah Ann Jackson and H. S. Johnston are bound unto the above-named Simon Jackson in the sum of fifteen hundred dollars, to be paid to the said Simon Jackson, his executors, or administrators. To which payment, well and truly to be made, we bind ourselves, and each of us, jointly and severally, and our, and each of our, heirs, executors, and administrators, firmly by these presents. Sealed with our seals, and dated this 2d day of June, 1873.

Whereas the above-named Sarah Ann Jackson hath prosecuted an appeal to the Supreme Court of the United States to reverse the decree rendered in the above suit by the said supreme court of the District of Columbia:

Now, therefore, the condition of this obligation is, that if the above-named Sarah Ann Jackson shall prosecute her said appeal to effect, and answer all decrees and costs if she shall fail to make good her plea, then this obligation shall be void; otherwise, the same shall be and remain in full force and virtue.

SARAH A. JACKSON. [SEAL.]
H. S. JOHNSTON. [SEAL.]

Sealed and delivered in presence of—
A. G. RIDDLE.

Approved June 2, 1873.

D. C. HUMPHREYS, *Justice.*

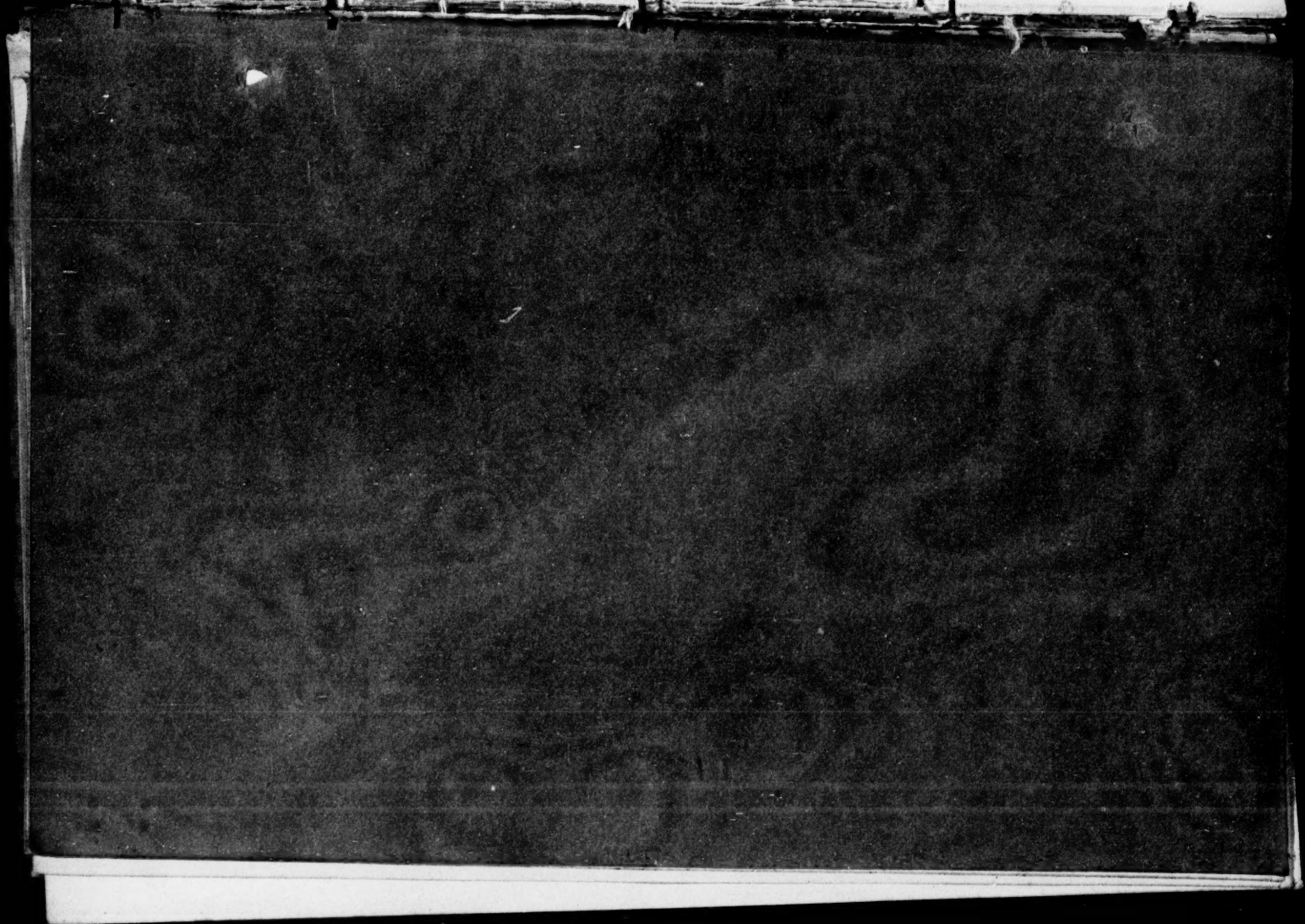
101 DISTRICT OF COLUMBIA, *to wit:*

I, R. J. Meigs, clerk of the supreme court of the District of Columbia, do hereby certify that the foregoing 100 pages of writing are truly copied from the originals on file, and of record in the clerk's office of said court, and that said originals together constitute the entire record in an equity cause pending and lately decided in said court, entitled Sarah A. Jackson vs. Simon Jackson, 2915, equity docket 12.

In testimony whereof I have hereunto affixed my hand and the s'al of said court this 7th day of October, A. D. 1873.

[SEAL.] R. J. MEIGS, *Clerk.*

(Indorsement on cover:) No. 256. Sarah Ann Jackson, appellant, vs. Simon Jackson. Dist. of Columbia, sup. court. Filed 15th October, 1873.



Supreme Court of the United States.

No. ₵₵₵. 115

SARAH ANN JACKSON,

vs.

SIMON JACKSON.

On Appeal from the Supreme Court of the District of Columbia.

BRIEF FOR APPELLANT.

The Parties to this suit are Colored.

This was a suit for divorce by the appellant, on the ground of habitual drunkenness for three years, and extreme cruelty. There were no children.

Answer denied both, on which issue was joined.

Cross-bill alleges numerous acts of adultery on the part of the plaintiff with one Dorsey; also with Burk.

It also sets forth that the plaintiff holds in her name title to certain real estate in the cross-bill described, with the improvements, acquired with the money and earnings of the appellee since said marriage.

Prays for a divorce with conveyance of the real estate to said husband.

Answer to cross-bill denies all the allegations of adultery.

It sets up that the wife purchased the land with money

derived from her father, and built the houses herself mainly with that money, the rents of the first house, and money earned wholly by herself; she took the title in her own name, and has held and managed the same in her own right ever since.

Upon this answer the appellee took issue. Evidence was was taken on both sides. Upon the hearing, the court found, that the husband was guilty of the cruelty as charged; that the wife was not guilty of adultery, and decreed a divorce to her. Also—

That she held the title to the real estate in trust for both parties; that she retain about one-half of the same in value, and convey the rest in *fee simple* to the appellee. Rec. p. 29.

From that part of the decree which thus decided the title, &c., the wife appealed to the general term. (Rec., p. 29.) The husband did not appeal from that part decreeing the divorce.

The supreme court in general term affirmed the decree of the court below, and the wife appealed to this court.

The court erred in decreeing a transfer of the property from the plaintiff to the defendant.

I. 1st. The whole subject of divorce, alimony, &c., in the District of Columbia, is a matter of statute law exclusively.

12 Statutes, 59. Rev. Stats. 88. 88

The 9th section of the act of 1860 authorizes the court to award alimony to the wife, to retain to her her right of dower, and award to her the whole or any part of the property owned by her at the time of her marriage, &c.

Was a wife to ask for a conveyance of a part of the husband's other property in fee upon dissolution of the marriage

bond for his breach of it, the court could not grant her prayer.

The term "alimony," of the statute, does not embrace the idea of the alienation of the husband's fee.

2d Bish., on M. & D., sec. 351, and note 1, Id. 524.

In this country the authority to divide the property, divest and transfer title, is derived wholly from statutes.

Id 509; Id. 474.

Previous to 1858, there existed no judical power in England to dissolve the bond of matrimony, and the instances there of divesting the husband of title arose where the marriage was void *ab initio*, which, when ascertained, was followed by a return of the estate derived from the supposed wife to her.

2d. The transfer of title from the wife to the husband could in no event occur on his cross-bill, which could alone contain matter of defence. Cross vs Lee v. 1 Wall 3

Adams' Equity, 857, (403.) Pub. Co. vs Good. 9 a 807

Story Eq. Pl., sec. 393; Id. 651.

2d Maddox Ch. Pr., title—Cross-bills, 428, &c.

English *et al. vs.* Foxall, 2d Peters, 595.

Shields *vs.* Barrow, 17th Howard, 130.

Gallatin *vs.* Erwin, Hopkins, 48, 8th Cow., 361.

1st Wall. C. R., 14.

Fletcher *vs.* Wilson, Smedes & Marshal Ch., 376.

May *vs.* Armstrong, J. J. Marshal, 260.

Draper *vs.* Gordon, 4 Sandf. C. R. Ch., 210.

Slason *vs.* Wright, 14 Verm., 208; 24 Id., 181.

Underhill *vs.* Van Cortlandt, 2d John's Ch., 339.

See note 2d, p. 857, Adams' Equity, quoted above.

3d. A failure to demur to cross-bill is no waver of this objection.

Story Eq. Pl., sec. 453.

Baker *vs.* Dacie, 6 Vesey, 686, per Eldon.
Hovenden *vs.* Annesley, 2d Schoales and Lefroy, 638, per Redesdale.

II. If the court had the power, even on the cross-bill, the case made by the husband does not entitle him to the relief sought.

It fully appears from the evidence that the wife received $2,000 from her father, which, with the permission of her husband, she retained, and invested as her own, for herself, in her own name. With it she purchased the land in question, and mainly built the first of the three houses. Unquestionably, the husband could assent to this, and if he did, the property became hers *non obstante* ~~constat~~ the marital relation.

The houses subsequently built were contracted and paid for in the name of the wife, and principally by her means, the proceeds of her labor and thrift, and although these would ordinarily flow to the husband, he could assent to their enuring to the sole right of the wife. That he permitted her to invest these means, with his own contributions, in property, the title to which was in her, is conclusive that he did assent to its thus becoming hers. He was at that time free from debt, nor is the property now sought by creditors, and it is submitted that he cannot now repudiate his acts, and divest her of the property.

True, his name was joined with hers in the contracts for building, notes, &c., but the proof is that it was solely to overcome her supposed marital inability to contract.

If, indeed, it can be contended that rightfully, between the parties, some use of the property, or of some part of it, should enure to the use of the husband, that could be done by allowing him to hold some part of it for life; but upon no principle can the wife be divested of the title.

A. G. Riddle,
For Appellant.

In the Supreme Court of the United States.

Oct. Term, 1875.

SARAH ANN DORSEY, APPELLANT,
vs.
SIMON JACKSON, APPELLEE.

No. 45.

BRIEF FOR APPELLEE.

The bill in this cause was filed in the Supreme Court of the District of Columbia by Sarah Ann Jackson against the appellee for divorce, on the ground of alleged habitual drunkenness and cruel treatment. The defendant answered; and also filed his cross-bill, asking divorce on the ground of adultery, alleged to have been committed by the plaintiff with one T. Graham Dorsey, and asking the court to dispose of the real estate of the parties acquired during marriage and standing in the name of the wife. On the hearing, the Court held that the charge of drunkenness was not maintained, nor that of adultery, but that the defendant had been guilty of cruelty towards the plaintiff, and thereupon it dissolved the conjugal relations and divided the property. On appeal to the General Term the Court affirmed this decision; whereupon the plaintiff appealed to this court from that part of the decree dividing the property, and shortly after availed herself of the remainder of the decree to contract marriage with the aforesaid Dorsey, thereby assuming the name of Sarah Ann Dorsey.

The plaintiff and defendant were married November 25, 1856, then being of the respective ages of nineteen and forty-four years, (Record, top of page 12,) and lived harmoniously together until shortly after the said T. Graham Dorsey, her present husband, became a boarder in their house, some time in the year 1871.

See testimony of Dr. Miller, (Record, p. 21; also, p. 13; and also pp. 9 and 10, at top.)

Mrs. Jackson manifested so great interest in the welfare of Dr. Dorsey as to excite remark among her neighbors, (see testimony of Dr. Dorsey, R., p. 8,) and to arouse the jealousy and resentment of her husband. Quarrels then arose between them, the said Dorsey being the exciting cause; and no efforts or representations of Mr. Jackson could prevail upon his wife to discharge him, or Dr. Dorsey to leave a household into which he had introduced discord.

These quarrels led to the suit for divorce. The witnesses for the appellant are, besides herself, Dr. Dorsey, her brother, and several of her friends. Their testimony goes too far; if it can be at all depended on, Simon Jackson, for many years, has been a common drunkard of the most notorious stamp. See testimony of Nancy Lee, (R., p. 6;) of Dorsey, (p. 8;) of E. Jackson, (p. 9;) of H. Scissel, (p. 9;) of appellant, (p. 23.)

The brother, Henry Scissell, testifies to Simon's being drunk two or three times a week, but says, on cross-examination, that his business was on the river, and kept him there day and night while he was employed, which was most of the time, (p. 10.)

But Mulloy, for many years magistrate, (p. 18,) and Mead, assessor of taxes, both near neighbors, (p. 19,) who had known him by daily acquaintance and observation,

never saw him drunk, and both gave him a good character for sobriety, industry, and economy. This testimony is strongly supported by the fact that he was employed for over six years in the Patent Office, and only left there on account of sickness. No one can believe that a man of the habits described in the appellant's testimony could have retained his position for so long a time. (See Record, p. 13, folio 43, and p. 18, folio 61.) The testimony as to cruelty was mainly that of appellant herself and Dr. Dorsey, her alleged paramour, and is open to grave suspicion.

(The court below did not find that the appellant was guilty of adultery, though one witness swore positively to it; it is true her testimony on cross-examination is contradictory of her direct testimony, but a poor ignorant colored servant girl can hardly be expected to stand very well the test of a cross-examination by an accomplished lawyer.) But it appears by the testimony of Dr. Dorsey himself that, notwithstanding the suspicions which he had aroused, and the repeated charges of adultery that had been made against him, he was for more than a week the only lodger in the house with Mrs. Jackson. If innocent, he and she must have had a most sublime confidence both in their innocence and in the charity of their neighbors.

This examination of the testimony in regard to the divorce is necessary in order to enable us to estimate the value of the testimony in regard to the purchase of the property.

The story that "the property was left to her by her fa-
" ther," (see Record, p. 11, 3d line from top,) or that "her
" father gave her $2,000 two years before her marriage,
" all of which she had at the time of her marriage," (see Record, p. 22, lines 10 and 9 from bottom,) are, to speak mildly, very peculiar. According to her own evidence she was seventeen only at the date of this liberal gift. (See

Record, p. 12, second line from top, and date of marriage stated in her bill.) Her brother's evidence, (p. 27 of the Record,) even with the complainant's helpful suggestions at the examination, is too incoherent and contradictory a puzzle to corroborate anything. It is said to have been the entire property of the father given to his daughter, a young colored girl, several years before his death, for the declared reason that she should *never* "*work a day for* "*anybody.*" And yet, with two thousand dollars in her pocket, she continues, according to the testimony of that very respectable gentleman, Dr. Miller, to work as a servant for him until the time of her marriage, (see Record, p. 20,) and the very next year she has no money to pay for the erection of the house, and Simon and Sarah give their notes for the cost of the improvement!

See Record, p. 14.

She could write, while he could not. (Record, pp. 1 and 12; also pp. 4, 5, and 19.) Naturally enough, therefore, Simon trusted the disbursement and investment of his earnings, the taking of the conveyance of the lots purchased, the making of the contracts for building, to his young and comparatively educated wife. He confided wholly in her, regarding their interests as one.

The entire evidence is conclusive of the fact that there was never any intention on the husband's part to make the wife a gift of the property—to invest her with exclusive control of it—for her distinct benefit. Indeed, from her own evidence (Record, top of p. 11) we have great reason to believe that he did not understand that she had obtained the deed from Matthiot in her individual name until she announced to him that, whether he would or no, another man should remain beneath their roof.

Record, p. 13, folio 45.

Simon Jackson is proven to have been industrious and economical, and to have earned during the whole period of his marriage at least $30 per month, and he was for six years and a half (p. 11) in the Patent Office, on a salary of $60 per month. He testifies that he would regularly bring home $30 or $40 per month, and give it to his wife to pay on these houses, (p. 12.) In another place he says: "I know that I gave her a considerable amount of money, and "was accustomed to make her laugh when I would come "home and put it down in her lap," (p. 13.). Mrs. Jackson admits that while he was working at the Patent Office he gave her from $15 to $30 per month, (p. 22,) which would be in the aggregate from $1,170 to $2,340 for less than one-half of the time he was married to her. She admits that her money was all gone before the first house was paid for, and notes to the amount of $525 were given by Simon and Sarah Ann Jackson for the deferred payments.

See Norment's testimony, p. 20, and Ex. A, 1.

Simon Jackson frankly admits that his wife worked industriously and contributed her full share toward the support of the family and the increase of their common property. Indeed, from what appears in testimony, this married couple lived harmoniously together and equally contributed to their comfort and welfare, until Dr. Dorsey entered their household.

A candid review of the whole case fully supports the finding of the court below, that the property in controversy "was in part acquired and paid for with money belonging "to said Sarah at the time of her marriage to said Simon, "and for the rest with moneys earned by the joint efforts "of said parties." Indeed, if there be any doubt in regard to the justice and truth of any part of the finding, it is whether the property was in any part paid for with money belonging to Sarah at the time of her marriage.

II.

This review of the evidence disposes of the latter part of the second question raised by the appellant's brief. The first part we shall consider as cognate to the first question: Had the court power to deal with the title to the real estate? for if it had the power, and the real estate was the fruit of the joint efforts, labor, thrift, and economy of the parties, there can remain no question that its decision dividing the property between them was both demanded by natural equity, and also in accordance with law.

A sundering of the marriage tie once duly bound, a termination of the marriage contract once legally made, was a thing unknown to the courts which first used, and then transmitted to ours the term alimony. It is a term of English law, there applicable solely (excluding the parental relation) to that provision made for the maintenance of the wife during separation from her husband, always with a view to, and with the design to promote reconciliation of the parties and resumption of the conjugal relation. Such temporary provision, of course, would not sanction alienation of estate, or its transfer, except for the time being, terminating always with the life of the party provided for. The act of Congress of June 19, 1860, adopts the term, and at the same moment gives it a broader field of application than it before had; so that, by virtue of the statute, we may now in the courts of the District of Columbia properly speak of alimony in connection with a decree of absolute, as well as of limited, divorce. But the same section of this act expressly recognizes, in addition thereto, the right of the court to deal with the title of property—to alienate it from one of the parties, and pass it absolutely to the other.

True, this last is not "alimony," either in the sense of

the English law, or in the sense of the statute law of the District of Columbia; but it is "authority to divide property, divest and transfer title," in conjunction with the severance of the marriage relation:—precisely what the court did do in the case at bar.

III.

To the complainant's bill in this cause the defendant appeared and answered, and issue was joined. To the defendant's bill the complainant appeared and answered, and issue was joined. The evidence was then taken by both parties, upon all the issues so joined, and the pleadings and evidence in both cases, were submitted together to the consideration of the court for its decree upon the merits of both suits;—if they were two. There can be no question but that the court had jurisdiction of the subject-matter of both cases. Surely, if parties choose, they are competent to submit two causes in one, at one time, for one decree, which shall pass on all the issues raised. How, then, can one of the parties, after the cause has been thus submitted on the merits to a court of competent jurisdiction, and decision made against him, escape that decision by murring to the joinder of the proceedings? The is too late. Story's Eq. Pl. 528 n.

But the defendant had an absolute right to file bill in this case, nor could the complainant at any stage make valid objection.

Every suit for an absolute divorce, equitably, properly, and necessarily involves the disposition of the property acquired by either of the parties by virtue of their marriage, and of all property acquired by their joint exertions during their coverture, whichsoever of the twain may be invested

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But the defendant had an absolute right to file the cross-bill in this case, nor could the complainant at any stage make valid objection.

Every suit for an absolute divorce, equitably, properly, and necessarily involves the disposition of the property acquired by either of the parties by virtue of their marriage, and of all property acquired by their joint exertions during their coverture, whichsoever of the twain may be invested

with the legal title. The contract of marriage is a life partnership. From it proceeds the most perfect and complete community of interests. Both the partners have a like interest in the acquisition of property. It is gained for the common advantage; settled and retained with a view to perpetual unity of interest. The court intervenes to dissolve that partnership. Would it not be a travesty of law, a mockery of justice, to say that while the partnership of life was terminated forever, the partnership of property should remain, or that the court should not make inquiry touching the assets of the late partnership, and, decreeing its dissolution, divide the property also as should be just?

Whenever the common labor of the parties has contributed, no matter in what proportions, to the acquisition of property during coverture, it is the duty of the court, once for all, to settle the property rights of the parties at the same time that it determines their individual (or sexual) relations. This is, therefore, an integral part of the subject-matter, unavoidably involved in every bill for absolute divorce, whether mentioned in the bill or not. Its settlement is necessary to do complete justice between the parties.

Therefore it was the proper subject of a cross-bill.

Vide, Cooper's Eq. Pl., 85.
Montague's Eq. Pl., 327, 328.
Mitford's Eq. Pl., 64, [81.]

Story's Eq. Pl. 389.
Stewartson vs Stewartson, 15 Ill. 145.
Hall vs Young, 37 N.H. 137
Pembroke vs Allen, 21 N.H. 111

The matter was involved in the original bill. Its consideration is necessary to the full relief of both parties.

Community of property growing out of marriage is declared and provided for in California, Texas, and other States.

Vide Smith *v.* Smith, 12 Cal., 224, and cit.
Meyer *v.* Kinzer, 12 Cal., 247.
Burton *v.* Lies, 21 Cal., 87.
Kashaw vs Kashaw, 3 Cal. 312

But this is merely the legislative declaration of an eternal principle of natural justice—not the creation of the idea; and courts are sworn to the administration of justice and equity. Most often courts lead the way, and legislatures follow.

FINALLY.

The money this wife had when she married, in 1856, (if any at all,) the law then made her husband's. Her subsequent earnings, the law declared to be his. The rents and income of the houses, the law placed absolutely in his hands; and there is no evidence that he ever permitted her to retain, or assented to her investing these for her exclusive benefit. But we have asked equitable division, not strict legal rights.

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